

Fair Housing Rental Testing Report 2001

Fairfax County Human
Rights Commission

Board of Supervisors

Katherine K. Hanley, Chairman

Gerald W. Hyland, Vice Chairman
Mt. Vernon District

Sharon S. Bulova
Braddock District

Catherine Hudgins
Hunter Mill District

Gerald E. Connolly
Providence District

Dana Kauffman
Lee District

Michael R. Frey
Sully District

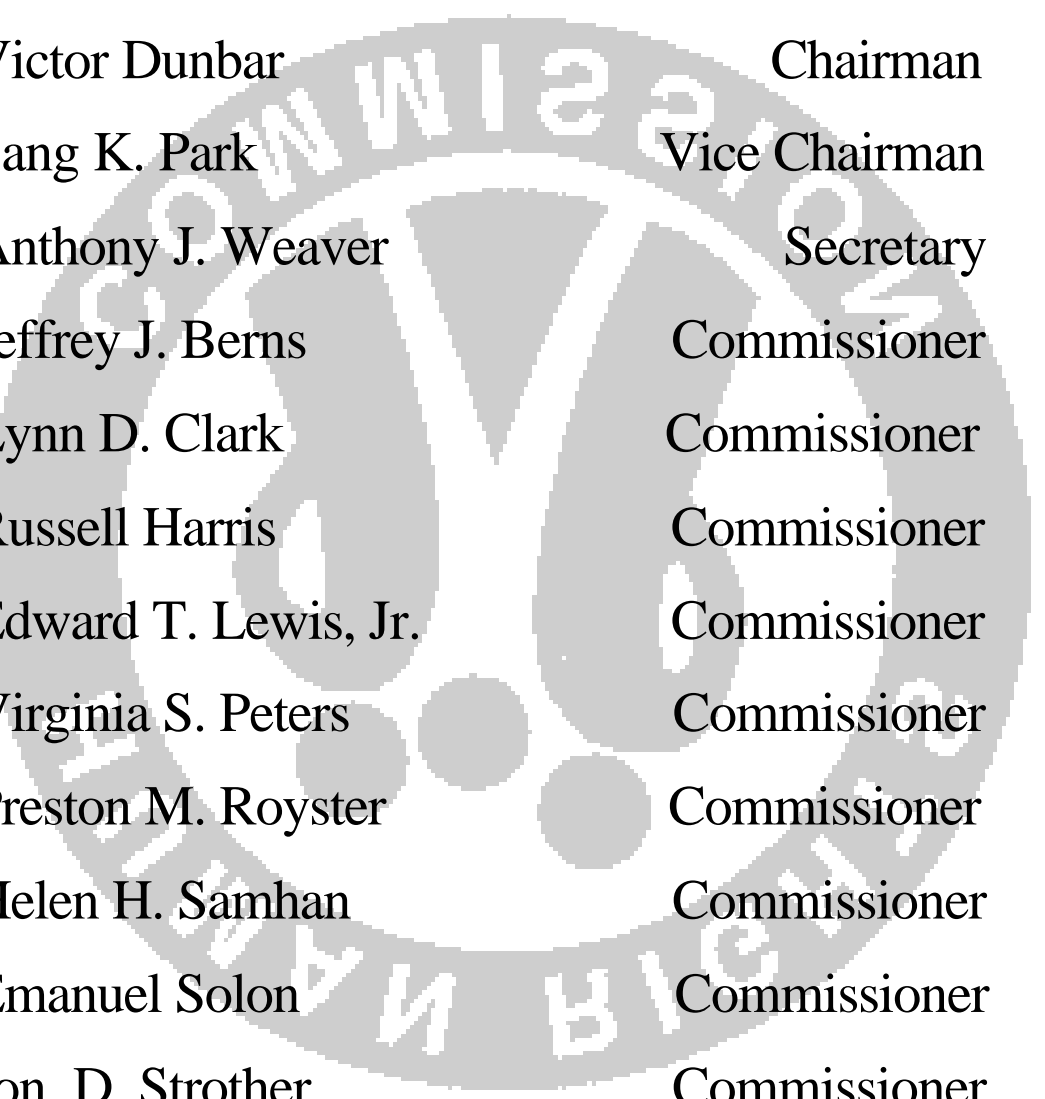
Elaine N. McConnell
Springfield District

Penelope A. Gross
Mason District

Stuart Mendelsohn
Dranesville District

Anthony Griffin
County Executive

Human Rights Commission



Victor Dunbar	Chairman
Sang K. Park	Vice Chairman
Anthony J. Weaver	Secretary
Jeffrey J. Berns	Commissioner
Lynn D. Clark	Commissioner
Russell Harris	Commissioner
Edward T. Lewis, Jr.	Commissioner
Virginia S. Peters	Commissioner
Preston M. Royster	Commissioner
Helen H. Samhan	Commissioner
Emanuel Solon	Commissioner
Jon D. Strother	Commissioner

Michael T. Cash
Executive Director

Table of Contents

Topic	page
Executive Summary.....	1
Federal State and County Fair Housing Laws.....	3
Fairfax County Human Rights Ordinance	3
Theories of Housing Discrimination	4
Fair Housing Testing Methodology	5
Evaluation of Test Results.....	6
Results – Race	8
Results - National Origin.....	12
Results - Familial Status.....	16
Results – Disability	20
Comparison with Prior Testing Results	22
Conclusions and Recommendations	27
Appendix	

Acknowledgements:

The Fairfax County Human Rights Commission would like to thank the following organizations for their valuable assistance in conducting fair housing rental tests.

Fair Housing Management Consultants

selected as our testing contractor for race, national origin, and familial status tests.

Northern Virginia Planning District Commission

coordinated and solicited requests for proposals and negotiated contracts with testing vendors and coordinated with all other Northern Virginia Jurisdictions.

Fairfax County Fair Housing Task Force

- The Northern Virginia Association of Realtors
- The Northern Virginia Apartment Association
- Fairfax Area Disability Services Board
- Office of Housing and Community Development
- Community Association Institute
- The Fair Housing Center of Northern Virginia
- Community Services Board
- Kurdish Human Rights Watch
- Pathway Homes, Center for Housing Counseling
- Center for Multicultural Human Services
- Northern Virginia Family Services
- Legal Services of Northern Virginia
- and interested citizens.

EXECUTIVE SUMMARY

On April 28, 1997, the Fairfax County Board of Supervisors appropriated funds for a fair housing testing program. On June 23, 1997, the Fairfax County Board of Supervisors adopted an Analysis of Impediments to Fair Housing Choice in Fairfax County. The Board of Supervisors decided that the Fairfax County Human Rights Commission should take primary responsibility for addressing the identified impediments including: lack of availability of discrimination data; need for education and outreach; and, lack of housing opportunities for families with children and persons with disabilities.

The Northern Virginia Planning District Commission then certified three fair housing testing contractors. In 1998-1999, 157 fair housing rental tests were conducted on the basis of race, national origin, disability, and familial status (presence of children in household).

In August 1998, the Human Rights Commission formed a Fair Housing Task Force composed of stakeholders from the housing industry, community associations, public officials, and nonprofit groups. Members include the Northern Virginia Association of Realtors, the Northern Virginia Apartment Association, Fairfax Area Disability Services Board, Office of Housing and Community Development, Community Association Institute, The Fair Housing Center of Northern Virginia, the Community Services Board, Kurdish Human Rights Watch, Pathway Homes, Center for Housing Counseling, Center for Multicultural Human Services, Northern Virginia Family Services, Legal Services of Northern Virginia and interested citizens. This Task Force recommends that Fairfax County conduct fair housing testing on an ongoing basis.

The Human Rights Commission published its first Rental Testing Report on July 26, 1999. This study represented the first countywide testing study undertaken by Fairfax County. This 2001 report is the result of the Commission's latest round of rental tests.

Following the first round of rental tests, the Human Rights Commission took the following action.

1. Filed Human Rights Commission charges where testing evidence showed a need for enforcement action.

2. Expanded education and outreach activities to rental complexes, especially for front line personnel.
3. Retested 125 rental complexes to measure the results of enforcement and educational actions.

Complexes were chosen to maximize the coverage of the rental market in Fairfax County both in terms of complexes and management companies. Complexes with fewer than 25 units were not tested due to a low probability of vacancies. The Commission's objective was to cover as many units as possible within budget restrictions.

For the 1999 report a total of 157 complexes were tested for housing discrimination in the first round of testing. This represents approximately 82% of the apartment complexes with more than 25 units in Fairfax County. These complexes control over 90% of rental complex housing units in Fairfax County.

For this 2001 report, a total of 125 tests were conducted. The County chose to re-test the apartment complexes previously tested in its 1999 fair housing testing study using the same protected classes. In this round of testing, fifty (50) tests were conducted on the basis of race, forty-four (44) tests were conducted on the basis of national origin, twenty-four (24) tests were conducted on the basis of familial status and seven (7) tests were conducted on the basis of disability. The *Fairfax County 2000 Rental Housing Complex Census Analysis* reports a total of 56,876 rental complex housing units in Fairfax County. The complexes tested control 40,671 units or 71.5% of rental complex units in Fairfax County.

- 125 Fair Housing Tests were conducted between November 6, 2000, and December 7, 2000.
- 50 tests for evidence of discrimination due to race.
- 44 tests for evidence of discrimination due to national origin.
- 7 tests for evidence of discrimination against persons with disabilities.
- 24 tests for evidence of discrimination against families with children.
- 95 of 125 tests showed no evidence of discrimination.
- 13 of 125 tests showed evidence of possible discrimination for which there appeared to be a legal reason.
- 54 of 125 tests showed evidence of possible discrimination for which there could be a possible legal reason.
- 17 of 125 tests showed evidence of discrimination.

FEDERAL, STATE AND COUNTY FAIR HOUSING LAWS

The federal Fair Housing Act outlaws discrimination in renting or purchasing a home or financing a home mortgage based on race, color, religion, national origin and sex. Congress amended the federal law in 1988 to include familial status and handicap as protected classes. Both the Fairfax County Human Rights Ordinance and the Virginia Fair Housing Law mirror the federal law and contain the additional protected classes of elderliness and marital status. The United States Department of Housing and Urban Development (“HUD”) has made a determination that the Virginia Fair Housing Law is substantially equivalent to the federal law. After being amended in October 2000, the Fairfax County Human Rights Ordinance was submitted to HUD with a request that the ordinance be deemed substantially equivalent to the Federal Fair Housing Act.

FAIRFAX COUNTY HUMAN RIGHTS ORDINANCE

The Fairfax County Human Rights Ordinance requires that housing providers provide equal housing opportunity to all county residents and prospective residents. This prohibits differences in treatment based on:

- **Race**
- **Color**
- **National Origin**
- **Religion**
- **Sex**
- **Age**
- **Disability**
- **Familial Status**
- **Marital Status**

The Human Rights Ordinance protects all persons including members of majority groups. With respect to marital status, the ordinance does not preclude questions regarding income on a joint application. The Human Rights Ordinance specifically prohibits a landlord from providing false information about available housing.

The Human Rights Ordinance also prohibits encouraging people to rent based on comments about whether the property is or is likely to be owned, used or occupied by a person or persons of a particular age, race, color, religion, sex, national origin, marital status, disability or familial status. This practice is referred to as “steering.”

On October 16, 2000, the Fairfax County Board of Supervisors amended the Human Rights Ordinance to make the fair housing provisions identical to those in the Federal Fair Housing Act and Virginia Fair housing Act. These amendments eliminated the specific prohibition against using photographs in rental applications. The Human Rights Ordinance still prohibits discriminatory use of photographs.

THEORIES OF HOUSING DISCRIMINATION

The courts have established two ways of proving housing discrimination. Discriminatory housing practices are defined below.

Disparate (Unequal) Treatment - Evidence of disparate treatment occurs when a housing provider treats home seekers differently, for example, on the basis of their race. This is the most common evidence uncovered by fair housing testing.

Overt actions also fall under this category. Actions that are obviously discriminatory are classified as overt actions. Overt actions include racial and ethnic slurs.

Adverse Impact - Evidence of adverse impact occurs when housing providers have policies, practices or procedures that, for example, disproportionately limit the ability of protected class members to obtain housing. If the effect of such a policy, practice, or procedure adversely impacts members of a protected class, it violates fair housing laws.

FAIR HOUSING TESTING METHODOLOGY

As previously discussed, the purpose of testing in Fairfax County was to determine how Black, Hispanic, testers with children and disabled testers were treated at a particular apartment complex. This is done by pairing two testers who are matched, as equally as possible, to each other except for the material factors of race, national origin, disability, and familial status. The characteristics that relate to the rental qualification process were matched as closely as practical for each tester. This included matching, for example, the income, employment background, and the prior housing history of the testers. Personal characteristics such as age, marital status, and number of children were also matched where appropriate. In order to conduct a familial status test, for example, a single female with one child was paired with a married couple without children. Tester pairs never differ in more than one protected characteristic (race, national origin, disability, or familial status). Generally, it was necessary for testers to assume characteristics other than their own. Testers did, in fact, play a role during the test.

Testers were sent to the same complex on the same day, usually 1-to-2 hours apart. The testers asked for the same type of unit and expressed a desire to move in within the same time frame (December 1st or 15th). In the national origin tests, for example, both testers were white females of the same age and marital status. The only difference was that one tester was Hispanic and the other was not Hispanic.

All testers were required to attend a training session. Pretest training serves to enhance the credibility of the testing process. Testers are oriented as to what is expected of them when conducting a test. Tester training included instruction in the following areas:

- (a) brief discussion of federal, state and local fair housing laws;
- (b) what testing is;
- (c) playing the role of a tester;
- (d) conducting the test; and
- (e) the debriefing process.

These, of course, were not the only components of the training, but are critical to the process of preparing the testers. The training also provided an opportunity to thoroughly familiarize the testers with all of the testing forms. The training also emphasized the importance of timeliness in the completion of the forms in order to insure the validity of the testing process.

The testers were debriefed each day after completing their assigned tests. The debriefing interview is a mechanism to ensure that the testing experience is being reported accurately and objectively. During the debriefing interview Fair Housing Management Consultants (FHMC) carefully reviewed the Tester Report Form with each tester. Particular attention was given to the narrative portion of the form. Any corrections and additions to the report form are made by the testers during the debriefing session. Each member of the tester team was debriefed separately. Debriefing each tester separately maintains the confidentiality and objectivity of the testing results.

ANALYSIS OF TEST RESULTS

Each test was analyzed individually to ascertain if there were any differences in treatment accorded, for example, to the Black and White members of the tester team. Rather than categorizing one aspect of the test as showing a difference in treatment, the tests were analyzed as a whole to put the totality of treatment afforded to each tester in context.

It is important to note that because the tests did not include having the testers complete a rental application and participate in the qualifying process for any of the apartment complexes tested, the tests could only measure one aspect of housing discrimination. The one aspect measured was the availability of an apartment unit for the occupancy date requested by the testers and the corresponding treatment concerning the issue of availability received by the testers.

EVALUATION OF TEST RESULTS

Fair Housing tests results were reviewed by a team of professional staff at the Fairfax Human Rights Commission. This review classified results into the following four categories.

Category One:

Tests showing no difference in treatment were listed as category one. No further review of these tests was necessary.

Category Two:

Tests with a difference in treatment that appeared to be nondiscriminatory were listed as category two. Also, tests that included complexes that would require reasonable accommodations for tenants with certain disabilities to make full use of the complex were included in this category.

Category Three:

Tests with a difference in treatment that possibly could be discriminatory or had a possible adverse impact on a protected class were listed as category three. These tests show evidence of discriminatory actions, but did not foreclose the possibility of a legitimate, nondiscriminatory reason for the evidence. If professional reviewing staff could imagine any plausible, nondiscriminatory reason for the difference in treatment, the test was listed as a category three result. Further investigation would be needed to determine if such a legitimate, nondiscriminatory reason exists.

Category Four:

Tests, which in the collective opinion of professional reviewing staff, presented evidence from which reasonable persons would conclude that the reported actions of the rental agent constituted discrimination are classified as category four. If for any test result, any of the reviewing staff members could produce a plausible nondiscriminatory reason for the conduct, the test result was not listed in category four. Also, all tests which presented evidence of overt actions of discrimination such as asking for race on the rental application, are classified as category four.

Results - Race Tests

50 Tests

Categories One and Two

- 38 of 50 race tests showed no evidence of unequal treatment.

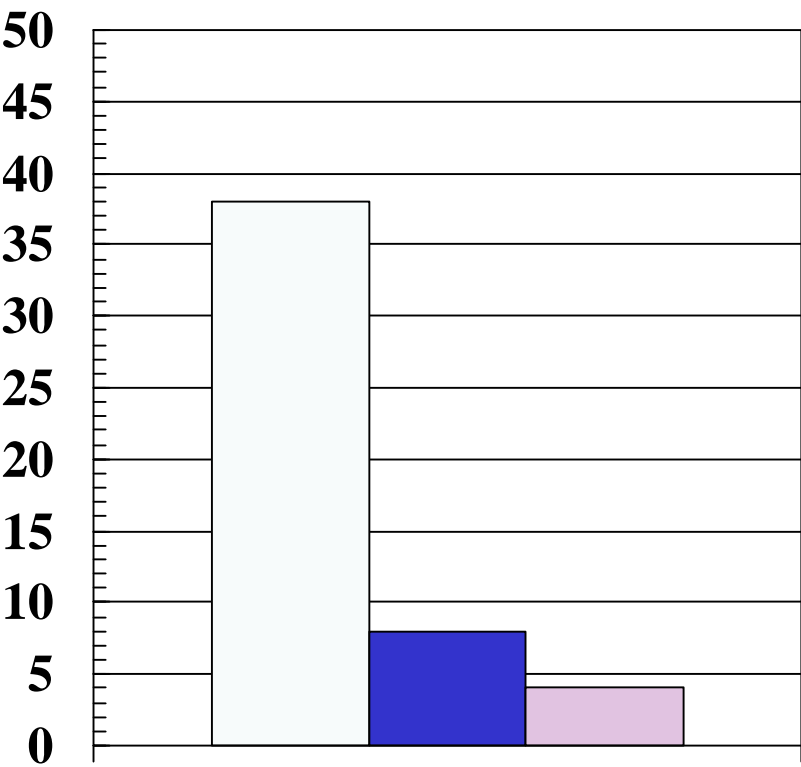
Category Three

- 8 of 50 race tests showed possible evidence of unequal treatment.
- 8 of 50 race tests showed some preferential treatment towards the White tester.
- No race tests showed preferential treatment towards the Black tester.

Category Four

- 4 of 50 of race tests showed evidence of unequal treatment or overt actions.
- 4 of 50 race tests showed evidence of unequal treatment in favor of the White tester.
- No race tests showed evidence of unequal treatment in favor of the Black tester.

Results - Race Tests
50 Tests



<input type="checkbox"/> No Evidence	38
<input checked="" type="checkbox"/> Some Evidence	8
<input type="checkbox"/> Substantial Evidence	4

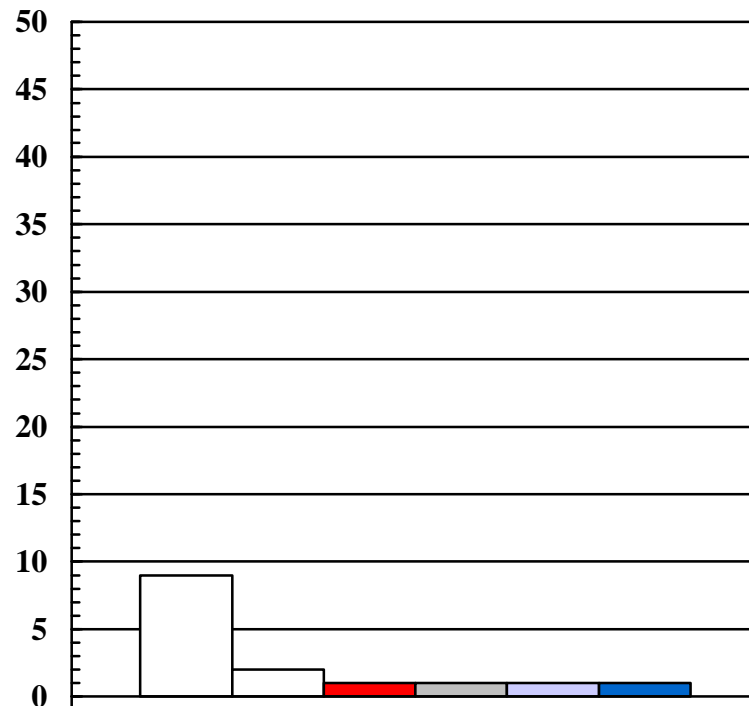
Results - Race Tests

Types of Potentially Discriminatory Actions

- 9 of 50 complexes informed the White tester of available units and did not inform the Black tester.
- 2 of 50 complexes gave significantly more information to the White tester.
- 1 of 50 complexes gave a lower price to the White tester.
- 1 of 50 complexes offered only the White tester a place on the waiting list.
- 1 of 50 complexes offered to show more units to the White tester.
- 1 of 50 complexes suggested other complexes for the Black tester, but not the White tester (steering).

Results - Race Tests

Types of Discriminatory Actions



<input checked="" type="checkbox"/> More Units Available	9
<input type="checkbox"/> Different Information Given to White Tester Only	2
<input checked="" type="checkbox"/> Better Price Given to White Tester	1
<input checked="" type="checkbox"/> Only White Tester Offered Place on Waiting List	1
<input type="checkbox"/> More Units Shown	1
<input checked="" type="checkbox"/> Steering	1

Results - National Origin Tests

43 Tests

Categories One and Two

- 27 of 43 national origin tests showed no evidence of unequal treatment.

Category Three

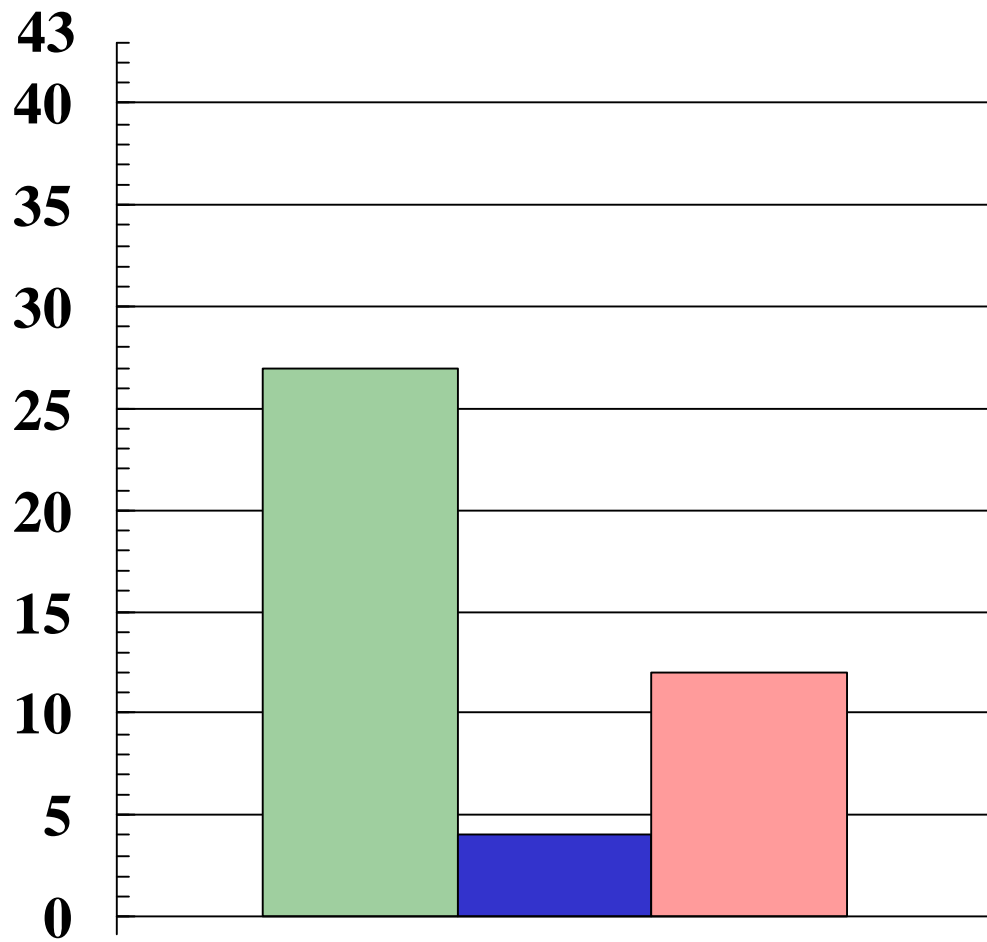
- 4 of 43 national origin tests showed possible evidence of unequal treatment.
- 3 of 43 tests showed some preferential treatment towards the non-Hispanic tester.
- 1 of 43 tests showed some preferential treatment towards the Hispanic tester.

Category Four

- 12 of 43 national origin tests showed evidence of unequal treatment.
- 12 of 43 national origin tests showed preferential treatment towards the non-Hispanic tester.

Results - National Origin

43 Tests



■ No Evidence	27
■ Category Three	4
■ Category Four	12

Results - National Origin Tests

Types of Potentially Discriminatory Actions

- 11 of 43 complexes informed one tester of available units and did not inform the other tester.

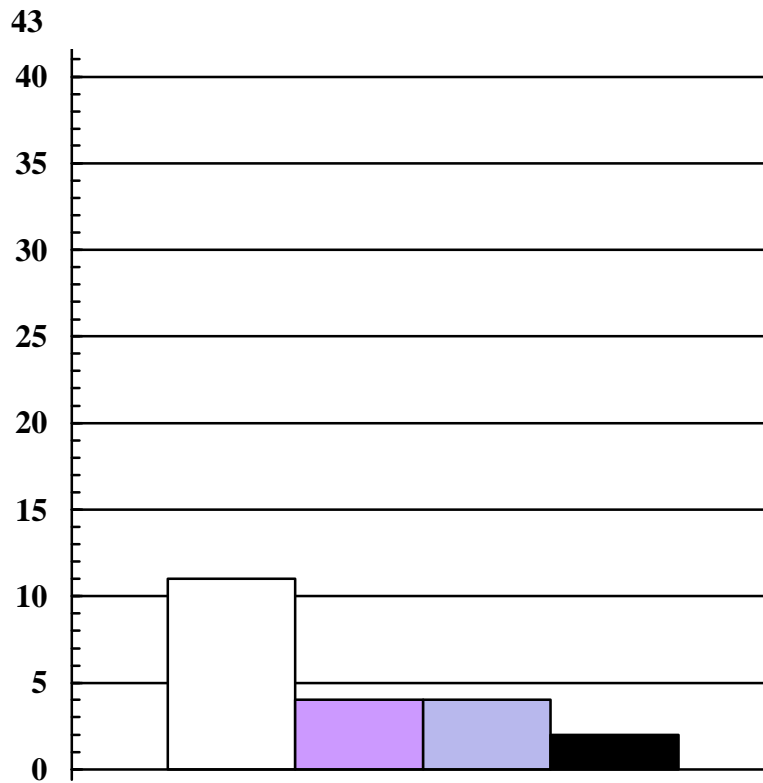
10 complexes told the non-Hispanic tester about more available units than the Hispanic tester.

1 complex told the Hispanic tester about more available units than the non-Hispanic tester.

- 4 of 43 complexes showed models or units to only the non-Hispanic tester.
- 4 of 43 complexes offered to call the non-Hispanic tester with more information or told them to call back for more information. The opportunity was not given to the Hispanic tester.
- 2 of 43 complexes offered to place the non-Hispanic testers on their waiting list, but did not tell the Hispanic tester about the waiting list.

Results - National Origin Tests

Types of Discriminatory Actions



■ More Units Available	11
■ Different Information Given to White Tester Only	4
■ More Units Shown	4
■ Only White Tester Offered Place on Waiting List	2

Results - Familial Status Tests

24 Tests

Categories One and Two

- 22 of 24 familial status tests showed no evidence of unequal treatment.

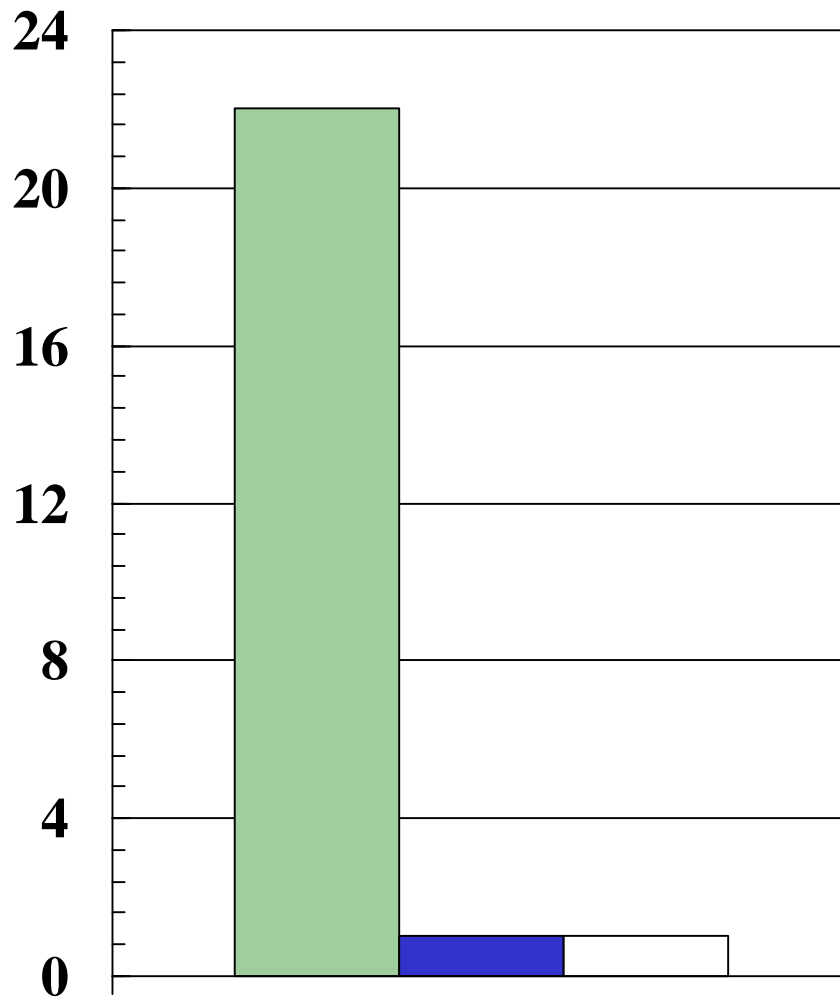
Category Three

- 1 of 24 familial status tests showed possible evidence of unequal treatment with preferential treatment towards families without children.

Category Four

- 1 of 24 familial status tests showed evidence of unequal treatment with preferential treatment towards families without children.

Results - Familial Status Tests 24 Tests



■ No Evidence	22
■ Category Three	1
■ Category Four	1

Results - Familial Status Tests

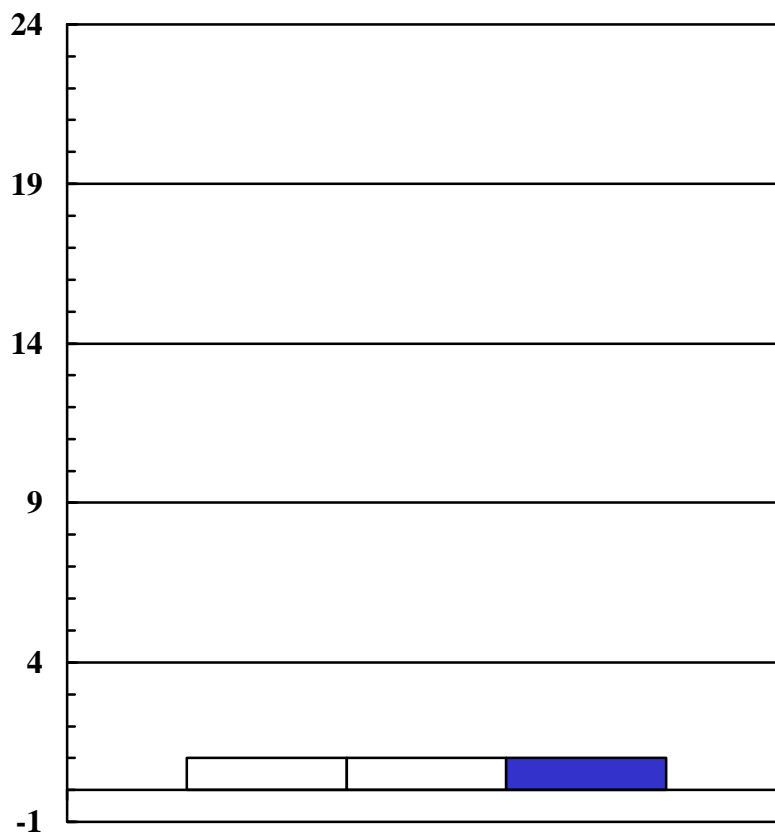
Types of Potentially Discriminatory Treatment

- 1 of 24 complexes informed the tester without children of available units and did not inform the tester with children.
- 1 of 24 complexes refused to consider renting the requested unit because of the presence of a child.
- 1 of 24 complexes suggested that the tester with a child rent a different and more expensive unit.

Results - Familial Status Tests

Types of Discriminatory Actions

(All preferential treatment toward tester without children)



<input checked="" type="checkbox"/> More Units Available	1
<input type="checkbox"/> Refused to Rent Unit because of Child	1
<input checked="" type="checkbox"/> Suggested that Tester with Child Rent a more Expensive Unit	1

Results – Disability Tests

8 Tests

Categories One and Two

- 8 of 8 disability tests showed no evidence of unequal treatment.

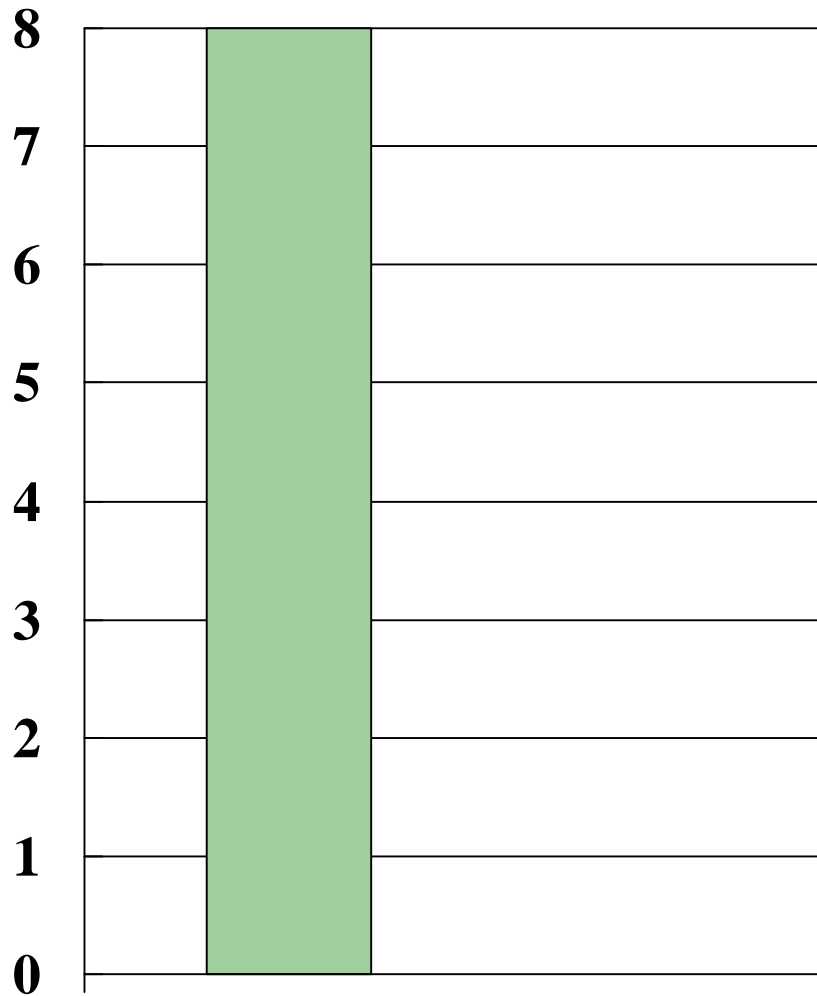
Category Three

- 0 of 8 disability tests showed possible evidence of unequal treatment.

Category Four

- 0 of 8 disability tests showed evidence of unequal treatment.

Results – Disability Tests 8 Tests



■ No Evidence	8
■ Category Three	0
■ Category Four	0

Comparison of 1999 and 2001 Fair Housing Testing Results

At the recommendation of the Fairfax County Fair Housing Task Force, the Human Rights Commission re-tested 125 complexes that were the subjects of the 1999 fair housing rental tests. The testing was not identical for several reasons. Some complexes were converted to nonrental or nonresidential housing. Some complexes became a form of subsidized housing that was not available to the general public. The 2001 testing did not include testing from the Disability Services Board, which contributed 32 tests in 1999. The 2001 tests did include 8 disability tests for complexes with evidence of unequal treatment in the 1999 tests.

Categories One and Two

- 39 percent of all the tests showed no evidence of discrimination in 1999.
- 76 percent of all the tests showed no evidence of discrimination in 2001.

Category Three

- 35.5 percent of all the tests showed evidence of possible discrimination for which there could be a legal reason in 1999.
- 10.5 percent of all the tests showed evidence of possible discrimination for which there could be a legal reason in 2001.

Category Four

- 25.5 percent of all the tests showed evidence of discrimination in 1999.
- 13.5 percent of all the tests showed evidence of discrimination in 2001.

Testing for each of the four protected classes showed a reduction in the number of tests with evidence or potential evidence of discrimination.

Race Tests

Comparison 1999 Results and 2001 Results

Categories One and Two

- 34 percent of the race tests showed no evidence of unequal treatment in 1999.
- 76 percent of the race tests showed no evidence of unequal treatment in 2001.

Category Three

- 44 percent of the race tests showed possible evidence of unequal treatment in 1999.
- 16 percent of the race tests showed possible evidence of unequal treatment in 2001.

Category Four

- 22 percent of the race tests showed evidence of unequal treatment or overt actions of discrimination in 1999.
- 8 percent of the race tests showed evidence of unequal treatment or overt actions of discrimination in 2001.

National Origin Tests

Comparison 1999 Results and 2001 Results

Categories One and Two

- 20 percent of the national origin tests showed no evidence of unequal treatment in 1999.
- 63 percent of the national origin tests showed no evidence of unequal treatment in 2001.

Category Three

- 44 percent of the national origin tests showed possible evidence of unequal treatment or potential adverse impact in 1999.
- 9 percent of the national origin tests showed possible evidence of unequal treatment or potential adverse impact in 2001.

Category Four

- 36 percent of the national origin tests showed evidence of unequal treatment or overt actions of discrimination in 1999.
- 28 percent of the national origin tests showed evidence of unequal treatment or overt actions of discrimination in 2001.

Familial Status Tests

Comparison 1999 Results and 2001 Results

Categories One and Two

- 32 percent of the familial status tests showed no evidence of unequal treatment in 1999.
- 92 percent of the familial status tests showed no evidence of unequal treatment in 2001.

Category Three

- 48 percent of the familial status tests showed possible evidence of unequal treatment in 1999.
- 4 percent of the familial status tests showed possible evidence of unequal treatment in 2001.

Category Four

- 20 percent of the familial status tests showed evidence of unequal treatment in 1999.
- 4 percent of the familial status tests showed evidence of unequal treatment in 2001.

Disability Tests

Comparison 1999 Results and 2001 Results

Categories One and Two

- 81 percent of the disability tests showed no evidence of unequal treatment in 1999.
- 100 percent of the disability tests showed no evidence of unequal treatment in 2001.

Category Three

- 0 percent of the disability tests showed possible evidence of unequal treatment in 1999.
- 0 percent of the disability tests showed possible evidence of unequal treatment in 2001.

Category Four

- 19 percent of the disability tests showed evidence of unequal treatment in 1999.
- 0 percent of the disability tests showed possible evidence of unequal treatment in 2001.
-

CONCLUSIONS AND RECOMMENDATIONS

On July 26, 1999, the Fairfax County Board of Supervisors received the 1999 Fair Housing Rental Report. On the same date the Board of Supervisors approved the Fairfax County Fair Housing Plan. The Fairfax County Fair Housing Plan calls for ongoing fair housing testing and training and outreach to rental housing providers.

After the 1999 round of fair housing rental testing, the Human Rights Commission filed 40 fair housing complaints and provided fair housing training to over 500 persons. The 2001 round of fair housing rental testing showed a marked drop in test results showing evidence of discrimination or possible evidence of discrimination.

The Human Rights Commission concludes that the combination of testing, training, and outreach has helped to reduce instances of housing discrimination in Fairfax County. However, testing results also show that housing discrimination has not been eliminated. In particular, tests for national origin discrimination provided evidence of discrimination more than three times as often as tests for other types of discrimination.

The Human Rights Commission recommends the following actions.

- Continuation of periodic fair housing rental testing
- Continuation of training and outreach to rental housing providers
- Outreach to the Hispanic community, immigrant groups, and multi cultural service providers